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**Sent:** 4/3/2020 2:10:33 PM  
**To:** Field, Jeff [Field.Jeff@epa.gov]  
**Subject:** RE: Force Majeure - Request for Clarification

Hi Jeff -

# Ex. 5 Attorney Client (AC)

Alex Chen  
Senior Counsel, Air  
EPA Region 7  
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(913) 551-7962

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**From:** Field, Jeff <Field.Jeff@epa.gov>  
**Sent:** Friday, April 03, 2020 8:32 AM  
**To:** Chen, Alexander <Chen.Alex@epa.gov>  
**Subject:** FW: Force Majeure - Request for Clarification

Alex,

# Ex. 5 Attorney Client (AC)

Jeff

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**From:** Johnson, Keith <johnson.keith@epa.gov>  
**Sent:** Friday, April 03, 2020 7:46 AM  
**To:** Field, Jeff <Field.Jeff@epa.gov>  
**Cc:** Algoe-Eakin, Amy <Algoe-Eakin.Amy@epa.gov>  
**Subject:** FW: Force Majeure - Request for Clarification

This other question below from Steve was asking for a regulatory interpretation, rather than a hypothetical situation. I'm not sure what EPA's interpretation would be. Have not come across this situation.

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**From:** Johnson, Keith  
**Sent:** Wednesday, April 01, 2020 3:55 PM  
**To:** Field, Jeff <[Field.Jeff@epa.gov](mailto:Field.Jeff@epa.gov)>  
**Subject:** FW: Force Majeure - Request for Clarification

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**From:** Sidebottom, Steve <[Steve.Sidebottom@dnr.mo.gov](mailto:Steve.Sidebottom@dnr.mo.gov)>  
**Sent:** Wednesday, April 01, 2020 3:53 PM  
**To:** Johnson, Keith <[johnson.keith@epa.gov](mailto:johnson.keith@epa.gov)>  
**Cc:** Vander Veen, Josh <[josh.vanderveen@dnr.mo.gov](mailto:josh.vanderveen@dnr.mo.gov)>; Guinn, Laura <[Laura.Guinn@dnr.mo.gov](mailto:Laura.Guinn@dnr.mo.gov)>  
**Subject:** Force Majeure - Request for Clarification

Hi Keith,

The Program is evaluating the definition of force majeure as it pertains to COVID-19 implications. Please find attached, a review of 40 CFR Part 60 and Part 63 regarding force majeure. Part 63 clearly defines a Performance Test and Performance Evaluation where as Part 60 is more unclear. When you read about force majeure in Part 63 and Part 60, the language specifically addresses/states Performance Testing. It does not speak to Performance Evaluations.

Please clarify if EPA believes COVID-19 implications that prevent an owner or operator from complying with the regulatory requirement to conduct performance tests fall under the definition of a force majeure for both performance tests and performance evaluations?

Should you need to speak with me directly, please know that I am working from home and can be reached at (5732) 378-4025.

Thank you.

Steve Sidebottom.